IN THE UNITED STATES BANKRUPTCY COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE:)	CHAPTER 13
VINCENT WENDOWSKI,)	
	Debtor)	CASE NO. 20-11964-MDC
CAPITAL ONE AUTO FINANCE	E,)	
A DIVISION OF CAPITAL ONE, N.A.		HEARING DATE:
	Movant)	Tuesday, February 16, 2021
)	10:30 a.m.
. VS.	ý	
•	ý	LOCATION:
VINCENT WENDOWSKI, Debtor		U.S. Bankruptcy Court
ROBERTA D. SMITH, Codebtor,		Eastern District of Pennsylvania
	Respondents)	Courtroom # 2
and	^	900 Market Street
WILLIAM C. MILLER)	Philadelphia, PA 19107
	Trustee)	*

STIPULATION

COME NOW, this day of , 2021, Vincent Wendowksi, debtor and Roberta D. Smith, codebtor, through Debtor's attorney, Brad J. Sadek, Esquire, and Capital One Auto Finance, a division of Capital One, N.A. ("COAF") by and through its attorneys, Mester & Schwartz, P.C., hereby stipulate the following terms of settlement of the Motion for Relief from the Automatic Stay and Codebtor Stay:

WHEREAS the Debtor owns a 2010 HONDA CR-V-4 Cyl. Utility 4D LX 4WD, V.I.N. 5J6RE4H38AL080043 ("vehicle"); and

WHEREAS COAF files a Motion for Relief from the Automatic Stay and Codebtor Stay ("Motion") with respect to missed post-petition payments; and

WHEREAS the Debtor has filed a Response to the Motion; and

WHEREAS the Debtor and COAF seek to resolve the Motion; it is hereby stipulated and agreed that:

- 1. The delinquency is \$1,742.60 in post-petition arrears and \$521.30 in pre-petition arrears plus \$313.00 in attorney's fees and costs as of February 11, 2021.
- 2. The Debtor shall file an amended Chapter 13 plan providing payment of the remaining arrears, totaling \$2,576.90 within 10 days of the entry of this Stipulation.
- 3. Thereafter, the Debtor shall remain current with regular monthly payments paid directly to the Movant starting with the regular monthly payment of \$274.26 due on February 15, 2021, and all such future payments due on the 4th of each month thereafter.
- 4. If Debtor shall fail to have a plan conforming to this Stipulation or the Debtor fails make to ongoing regular monthly payments and Debtor fails to cure said default within fifteen (15) days after notice by COAF (or its counsel) of said default, counsel for COAF may file a Certification of Default with the Court setting forth Debtor's default and COAF shall be granted relief from the automatic stay provisions of Sections 362 and 1301 of the Bankruptcy Code (11 U.S.C. § 362 and 1301), and COAF is then also free to proceed with exercising its rights and remedies as may be allowed under State and Federal law without regard to any future conversion of this matter to a different form of bankruptcy. The Debtor shall be allowed to default and cure such default under this Stipulation one (1) time. Should the Debtor defaults a second (2nd) time, notice of the default will be served, but the Debtor will not be granted an opportunity to cure the default and COAF may file a Certification of Default.
- 5. In the event Debtor converts to a bankruptcy under any Chapter other than
 Chapter 13 of the Bankruptcy Code, then Debtor shall pay all pre-petition arrears and post-petition
 arrears due and owing within fifteen (15) days from the date the case is converted from Chapter
 13 to any other Chapter. If Debtor fails to make payment in accordance with this paragraph, then
 COAF, through counsel, may fite a Certification of Default setting forth said failure and COAF

shall be granted relief from the automatic stay provisions of Sections 362 and 1301 of the Bankruptcy Code (11 U.S.C. § 362 and 1301) and COAF is then also free to proceed with exercising its rights and remedies as may be allowed under State and Federal law.

- 6. The failure by COAF, at any time, to issue a Notice of Default or file a Certification of Default upon default by the Debtor shall not be construed, nor shall such failure act, as a waiver of any of COAF's rights hereunder.
- 7. This Stipulation is a supplement and in addition to the Contract between the parties and not in lieu thereof.
- 8. Facsimile signatures shall be accorded the same force and effect as an original signature, and may be submitted to the Court.

BY THE COURT:

February 25, 2021

Magdeline D. Coleman

Magdeline D. Colen

CHIEF U.S. BANKRUPTCY JUDGE

Pre-Petition Arrears: \$ 521.30 Post-Petition Arrears: \$ 1,742.60 Counsel Fees: \$ 313.00 Total: \$2,576.90

> Capital One Auto Finance, a division of Capital One, N.A. By Counsel: Mester & Schwartz, P.C.

By:

Jason Brett Schwartz, Esquire Mester & Schwartz, P.C. 1917 Brown Street Philadelphia, PA 19130

(267) 909-9036

DATED:

Seen and agreed to -- We hereby consent to the form and entry of the foregoing Order.

Debtor: Vincent Wendowksi

By Counsel for Debtor: Brad J. Sadek, Esquire

B.v:

Brad J. Sadek, Esquire Sadek and Cooper 1315 Walnut Street Suite 502 Philadelphia, PA 19107 (215) 545-0008

DATED:

Chapter 13 Trustee

No Objection - Without Prejudice to Any Trustee Rights or Remedies

By: /s/ LeeAne O. Huggins February 22, 2021

William C. Miller, Trustee P.O. Box 1229 Philadelphia. PA 19105 (215) 627-1377 Please send copies to:

Vincent Wendowksi 1030 Chestnut Street Trainer, PA 19061

Roberta D. Smith 7158 Lawnsdale Ave. Philadelphia, PA 19111

Brad J. Sadek, Esquire Sadek and Cooper 1315 Walnut Street Suite 502 Philadelphia, PA 19107

William C. Miller, Trustee P.O. Box 1229 Philadelphia, PA 19105

Office of the U.S. Trustee 200 Chestnut Street, Suite 502 Philadelphia, PA 19106

Jason Brett Schwartz, Esquire Mester & Schwartz, P.C. 1917 Brown Street Philadelphia, PA 19130